



# Seasonal Patio Program Guidelines

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## Introduction

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The Municipality of Chatham-Kent is offering participants in the Seasonal Patio Program access to public space on city streets and sidewalks to expand outdoor seating capacity.

The Municipality has prepared this document to summarize the essential information needed to safely operate a seasonal patio, where possible, for the 2024 patio season.

If you wish to operate a new seasonal patio on public lands in 2024 you **must** apply to the Municipality of Chatham-Kent for approval.

Patios must meet the design and operational requirements set out in this document, including but not limited to, obligations related to health and safety, accessibility, equipment (e.g., fencing, barriers, and planters), and insurance and indemnification requirements. Pedestrian mobility, physical distancing, patio, and road user safety requirements must be met for this program to be successful for all members of the public.

## Using the Guidelines

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This information is for patios on public property. Applications for private property, whether temporary or permanent, must go through the Building Permit and Liquor Licensing process. More information can be found at [www.chatham-kent.ca](http://www.chatham-kent.ca).

These guidelines are subject to change and meant to be used as a resource for informational purposes. It is the responsibility of businesses and patio operators to ensure compliance with all mandatory regulations, by-laws, and third-party requirements each year.

Patios whose layout, location, and proposed construction changes in any way between the application year and a renewal year will need to submit a new application for review and approval. In these cases, added fees may be applied.

## Application and Approvals

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All patios which make use of publicly owned land (sidewalks, parking spaces) require a signed Encroachment Agreement between the patio operator, the property owner (if applicable) and the Municipality. The Municipality reserves the right to include any other conditions in the Encroachment Agreement as it believes necessary.

1. Applications will be reviewed on a case-by-case basis and proper safety/traffic control measures will be determined by municipal staff following Ontario Traffic Manual Book 7 (Temporary Conditions).
2. Patio drawings and diagrams must include measurements in consistent units (millimetres; metres; inches; feet) that show the area of the patio while supporting the requirements for Accessible Routes, furniture, tents, fencing, decking, and ramps.
3. Applicants must supply proof of commercial general liability insurance (\$2 million) coverage endorsed to include The Corporation of the Municipality of Chatham-Kent as an additional insured.
4. A renewal letter at the start of each patio season will be issued once a signed Encroachment Agreement is active and updated insurance has been received by the Public Works Department.
5. Program fees are set within the User Fee By-law and are subject to change without notice and to annual increases with Council approval.
6. For maintenance purposes, patios will only be permitted on a seasonal basis, subject to weather conditions. During the off-season, the area should be returned to its original condition with no furniture or fencing in the right of way. Any remediation work undertaken by the road authority to return the patio area to its pre-approved condition may be billed to the patio operator.

The Municipality reserves the right to remove or require the Patio Operator to remove the patio (or part of it) and will not be liable for any costs associated with the removal and/or re-installation to address emergency situations or for other municipal priorities.

# How to Apply for a Patio Agreement

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To apply you will need:

1. A complete patio application form (PDF) with consent from the property owner.
2. Patio plans showing location and dimensions of patio and surrounding features.
3. A certificate of liability naming the Municipality of Chatham-Kent as additional insured (PDF).

## General Requirements

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1. It is the responsibility of patio operators and businesses to ensure compliance with all applicable federal, provincial, and municipal laws, rules, orders, regulations, and by-laws in respect of operating an outdoor patio.
2. Patios approved under this program should be in place no earlier than April 1 of each program year. The patio operator is responsible for removal of the patio no later than Nov. 1 of each program year. The Municipality reserves the right at its discretion to require the removal of any patio for noncompliance or to address emergency situations.
3. The applicant for a patio should be the owner of the business.
4. Patios are allowed where the patio installation is located directly in front of or next to the building of the applicant business. In all cases, the business operating the patio should always exercise control over access and use of the space. Patios may extend on the sidewalk in front of neighbouring businesses if the neighbouring business supplies written permission.
5. Patios should not impede access to or visibility of adjacent tenant spaces or exits.
6. Patio operators must keep structures and equipment in a safe and clean condition, and in good repair, and secure or store the patio furniture when not in use outside the hours of business operation.
7. Patio operators should keep the patio and surrounding area clear of any hazards or debris that may pose a health risk (e.g., grease spills, broken glass, bodily fluids). Patio operators may also need to clean public space inaccessible to the municipal street sweepers due to the placement of patio barriers or fencing.
8. Patios should not obstruct underground utility access, electrical transformer vaults, utility boxes, boulevard or road drainage, fire hydrants, parking meters, bike racks, loading zones, active transit stops and other infrastructure.
9. Patios should not vary from the Municipally approved site plan(s). All other proposed structures, appurtenances or physical extensions, and any changes to the size of or access to the patio area should be submitted to the Municipality for review and approval before installation.
10. No advertising or promotional materials may be included on any patio on public property.

# Location

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It is preferable to install a patio within the existing sidewalk/boulevard area to avoid using a parking lane or a curb lane on a roadway. If there is enough room to have a patio and a pedestrian clearway of at least 1.8 metres within the existing sidewalk/boulevard area, there is no need for traffic protection for the patio.

If there is not enough room for both the patio and a pedestrian clearway off the roadway, it is preferable to redirect pedestrians onto the roadway around the patio. Traffic protection must be provided.

Patios should be at least 3 metres from any nearby driveway. This distance may vary on a site-by-site basis taking into consideration sight lines, road geometry, proximity to transit stops and related amenities, and other considerations to the satisfaction of the Municipality of Chatham-Kent.

For patios near transit stops, a clear 15 metre length parallel to the curb and 2 metre width perpendicular to the curb from the bus stop pole must be kept for the bus stop landing pad. Accessibility at bus stops must be always upheld, including curb space to deploy the ramp. This area must be free of furniture, planters, or fencing.

Patios will not be approved within a parking lane or a curb lane on roads with a posted speed greater than 50 km/hr.

## Types of Patios

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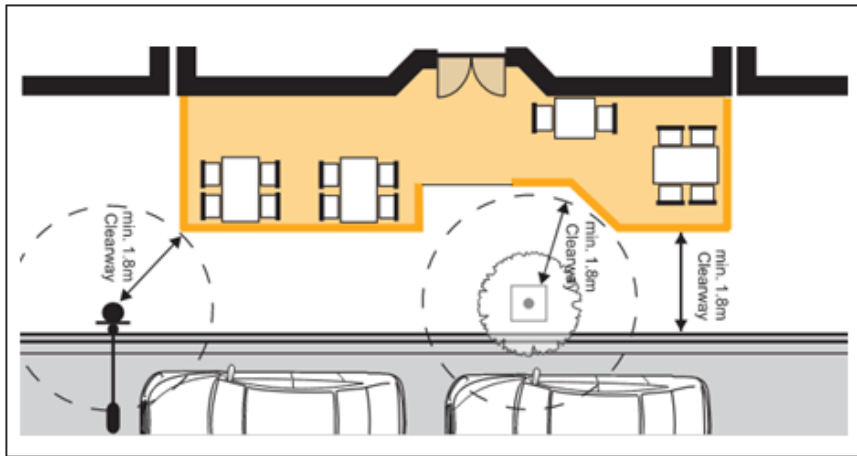
Assorted styles of seasonal patios on public lands that may be approved include but are not limited to:

1. Frontage Patios
2. Curbside Patios
3. Corner Patios
4. Curb Lane Patios
5. Frontage Patios with Pedestrian Clearway

For all patios, a pedestrian clearway of at least 1.8 metres wide needs to be kept with 2.1 metres width considered ideal. At locations with high pedestrian volumes, a clearway width of 2.5 metres may be needed.

The following types of patios may be implemented within the public right-of-way:

## Frontage Patios



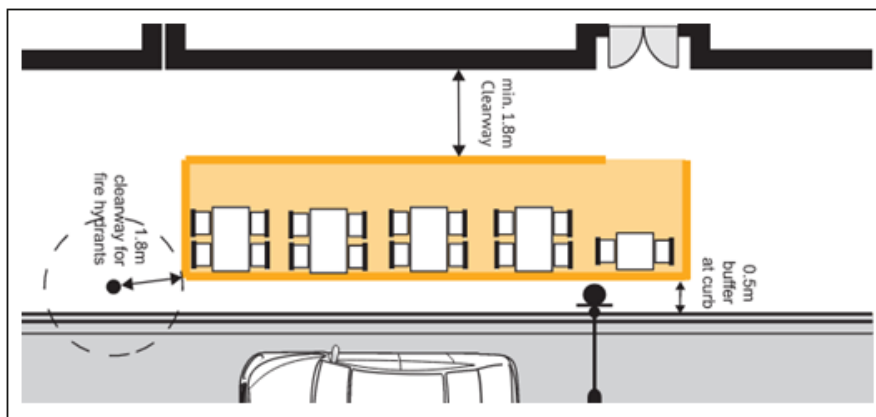
1

Frontage Patios include patios located along the building but extending into the right-of-way.

Frontage patios may only be approved where the pedestrian clearway can be kept free from any obstacles (e.g., trees, light poles, bike rings, etc.). If a straight pedestrian clearway cannot be kept, the pedestrian path deviation must be less than 20 degrees.

When a frontage patio is not possible due to pedestrian clearway limitations, curbside patios may be considered.

## Curbside Patios



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Curbside patios are patios along the curb that are located on the exterior edge of the public right-of-way, with the clearway located between the building and the patio.

This type of patio ensures the pedestrian clearway is kept, and still allows the patio to be set up on the sidewalk with some streetscape elements (e.g., fire hydrant and light poles) incorporated into the

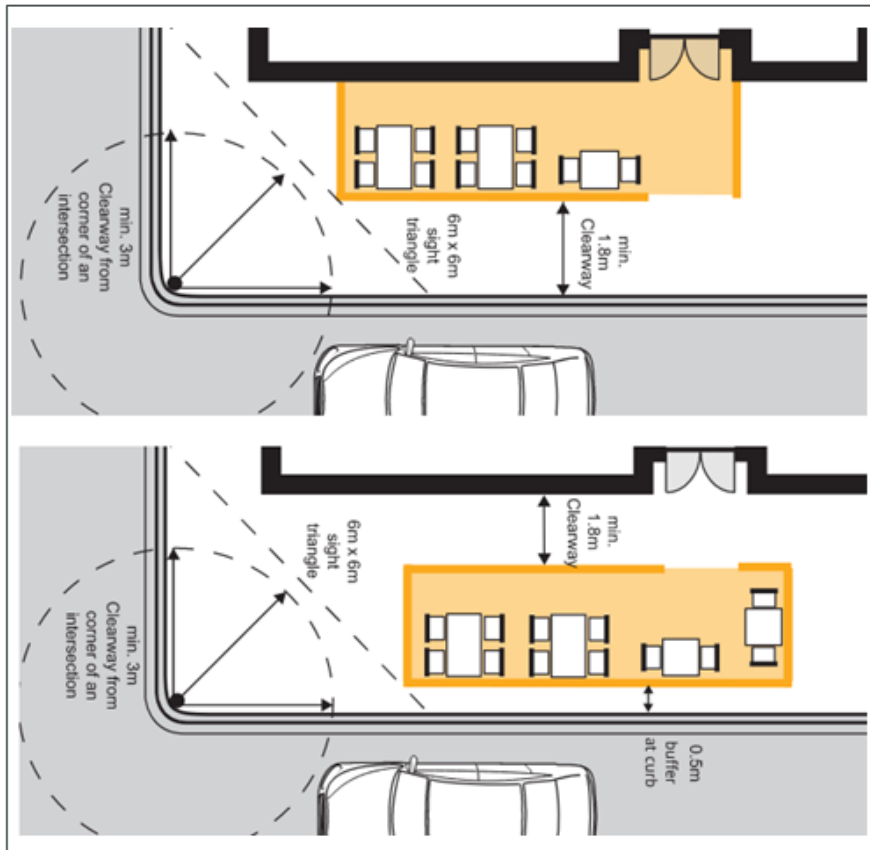
<sup>1</sup> Image credit: Sidewalk Patio Standards and Application Process, City of London, 2018

<sup>2</sup> Image credit: Sidewalk Patio Standards and Application Process, City of London, 2018

patio. However, fire hydrants must not be incorporated within the patio, and always require at least a 1.8-metre buffer zone.

Between the boundary of the patio and the curb, a minimum buffer of 0.5 metres must be provided.

## Corner Patios



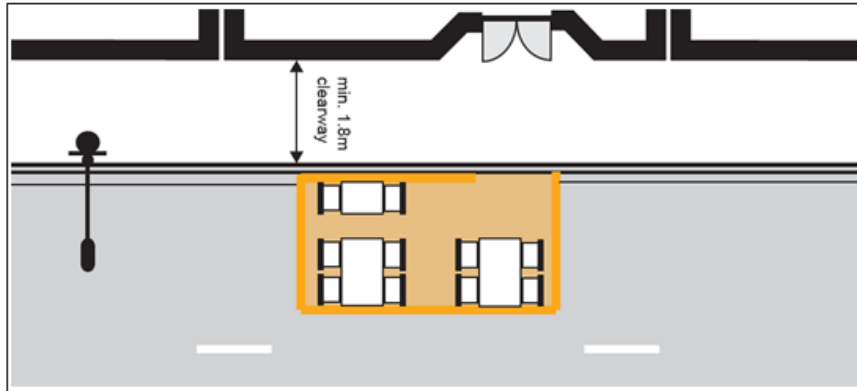
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Corner patios are similar to frontage patios and curbside patios. However, corner patios require special treatment to ensure greater pedestrian volumes and traffic activity can be accommodated:

- i. A minimum clearway of 3 metres must be provided from the corner of the intersection.
- ii. A 6-metre x 6-metre sight triangle should be kept where there is enough space.

<sup>3</sup> Image credit: Sidewalk Patio Standards and Application Process, City of London, 2018

## Curb Lane Patios



\*Roadside protection details not shown

Where the public right-of-way is not large enough to support a patio on the sidewalk, patios may be located within an on-street parking space.

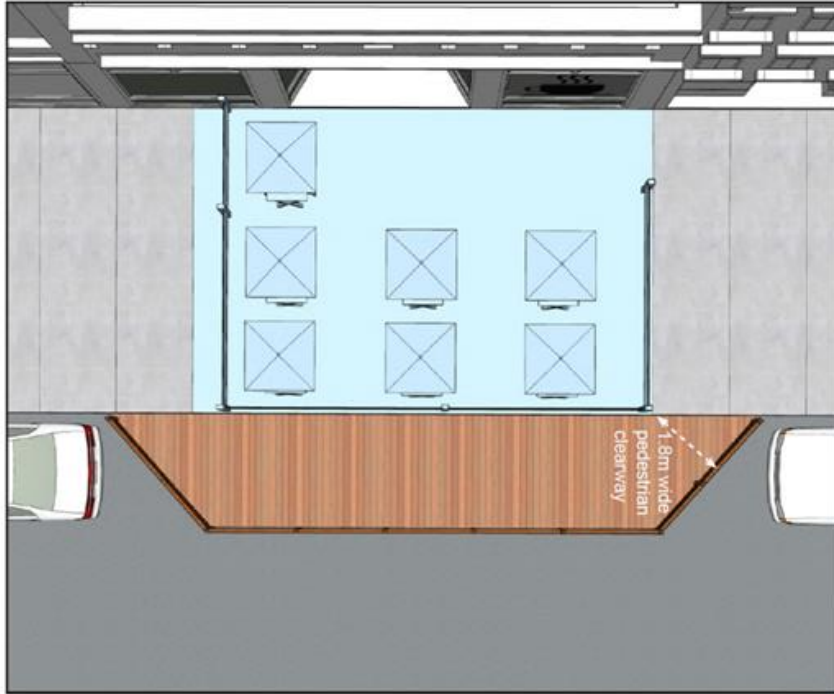
Curb lane patios may not be possible within the following areas:

- Commercial loading zones
- Accessible boarding zones
- Locations with transit stops
- Designated Accessible Parking locations
- Areas that would conflict with an active construction zone; or
- Roads with a posted speed of greater than 50 km/h

Curb lane patios will require roadside protection.

<sup>4</sup> Image credit: Sidewalk Patio Standards and Application Process, City of London, 2018

## Frontage Patios with Pedestrian Clearway



\*Roadside protection details not shown

Where the public right-of-way is not large enough to support a patio on the sidewalk while keeping the pedestrian clearway, pedestrian traffic may be diverted to the curb lane, and the following requirements must be met:

- i. A platform must be provided to bring the curb lane to the same height as the sidewalk.
- ii. When redirecting pedestrians, the deviation must be less than 20 degrees.

This type of patio is more suitable for one establishment with a long frontage or multiple establishments that can share a long-combined frontage.

<sup>5</sup> Image credit: Sidewalk Patios Requirements & Guidelines, City of Sault Ste. Marie, 2020

# Road User Safety/Traffic Control

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Municipal staff will determine proper roadside safety/traffic control measures and barrier systems on a case-by-case basis in accordance with [Ontario Traffic Manual Book 7](#) (OTM Book 7).

Patio operators are not allowed to install their patio until a suitable road protection system and temporary signing is in place. Setup or takedown of any structure or materials on parking spaces or curb lanes can only be completed by municipal staff (other fees may apply) or a contractor who is trained and qualified in the OTM Book 7. The Ontario Health and Safety Act and Regulations takes precedence over OTM Book 7 in worker safety matters.

Any safety and traffic control measures placed by the Municipality should not be moved or altered by the patio operator.

Patio furniture, including umbrellas, shall not obstruct vehicular or pedestrian sightlines, visibility or movement. At intersections and driveways, sightline triangles must be maintained per [TAC \(Transportation Association of Canada\) Geometric Design Guide for Canadian Roads](#), Chapter 8 – Access. Fencing must not obstruct vehicular or pedestrian sightlines or fire routes.

## Roadside Barriers

For all patios occupying a parking or curb lane on a roadway or where a pedestrian pathway has been diverted onto the roadway, a roadside barrier must be installed to reduce the risk of a vehicle striking either a pedestrian, restaurant patron, or restaurant staff serving patrons. All barriers installed in parking or curb lanes will need to be equipped with a suitable amount of retroreflective material to supply adequate daytime and night-time visibility.

Roadside protection requirements are according to Ontario Traffic Manual Book 7: Temporary Conditions, a manual that identifies layouts for temporary conditions where a part of the roadway is temporarily closed.

## Emergency Access

If the parking/travel lane closure of your patio is longer than 15 metres, a review may be required by the Chatham-Kent Fire Department to decide whether any emergency access points must be installed as part of your fencing or lateral barrier. If this is needed, you will be notified in writing by municipal staff.

## Fire Hydrants, Connections and Route

Fire department connections and fire hydrants must not be obstructed. The following requirements must be met:

- i. A minimum 1.8 metres clearance from fire department connections and hydrants must be supported on a patio.
- ii. Fire hydrants or fire department connections must be always visible from the street and accessible by Fire Services
- iii. Fire routes must not be obscured by a patio.

A patio cannot not be situated on top of, or within 1.0 metre of an underground hydro vault.



## Accessibility

Ensuring accessibility for all patio users includes meeting requirements from the Accessibility for Ontarians with Disabilities Act (AODA), Chatham-Kent accessibility requirements and accessibility criteria specific to the Seasonal Patio Program.

Accessible routes must be provided through the patio area, as follows:

- i. The pedestrian clearway requires 1.8 metres (6 feet) of space on most sidewalks kept in a straight line and located at least 0.5 metres (21 inches) from the curb. Wider sidewalks with higher pedestrian volumes may require 2.5 metres.
- ii. To ensure the patio area does not impose a change in the direction of the pedestrian clearway of more than 20 degrees, the patio operator should use a tape measure and something to mark measurement points (pylons, chalk marks, etc.) to verify that this requirement is being adhered to.
- iii. The patio operator must provide accessible access to the patio with a minimum width of 1.8 metres.

The patio operator:

- i. Must not place patio materials in the pedestrian clearway.
- ii. Must ensure the patio's perimeter fencing is a cane-detectable barrier to provide people with vision loss the ability to identify boundaries. Rope-to-post or chain-to-post barrier are not

cane detectable. It must not protrude into the path of travel beyond the posts or tables and chairs for the patio.

- iii. Must not use the pedestrian clearway to queue patrons awaiting their reservation or table.
- iv. Must not place A-frame signs or other obstacles in the pedestrian clearway.
- v. Must not lay electrical wires for any appliances (e.g., heaters, lights) across the pedestrian clearway.

It is the patio operator's responsibility to follow the Accessibility for Ontarians with Disabilities Act (AODA) at all times. If it is found that obstructions are placed in the pedestrian clear path, a Municipal enforcement officer will require you to remove these materials upon inspection. Patio operators that are the subject of repeated complaints may have their patio permissions removed.

## Accessible Ramps



Where a sidewalk and patio are separated by a curb, accessible access can be achieved through two methods - installation of a temporary platform or a temporary accessibility ramp. Accessibility ramps are preferred.

For a curb that is under 200 millimetres, the following must apply:

- i. The slope of the ramp must be less than 1:10.
- ii. The ramp must be at least 1.8 metres wide, exclusive of flared sides.
- iii. The ramp must be stable so that it does not shift or move when used.
- iv. The ramp must have a surface including flared sides that:
  - a. Is slip-resistant.
  - b. Is visible at night.
  - c. Has a detectable warning surface with colour (peel and stick).
  - d. Has texture that is contrasted with the adjacent surfaces (tape at top and bottom).
  - e. Has a smooth transition, less than 6 millimetres, from the ramp and adjacent surfaces.
- v. Must not affix the temporary ramp to the sidewalk, curb edge, or road with screws, bolts, or other materials.

- vi. Rubber ramps are recommended over asphalt ramps, as rubber ramps can be easily reallocated when the furniture setup needs to be reconfigured or when the patio needs to be removed for the off-season. There must be space at the bottom of the ramp for someone using a mobility device to turn and navigate into the patio area.
- vii. Ramps should only be installed by a contractor licensed to work within the roadway.
- viii. If a ramp over 200mm (8.5 inches) is needed, a building permit may be needed. More information can be found at [www.chatham-kent.ca](http://www.chatham-kent.ca).

## Accessible Seating

According to the AODA, A minimum of one table or 20% of tables (whichever is greater) must be easily accessible to persons using mobility aids. If more than one accessible table is installed, they should be dispersed through the seating area.

Patio operators can also consider the following when making decisions about patio elements:

- i. Consider people using mobility devices when deciding what type of furniture to be set out in the patio area. For example, picnic tables significantly limit a person's mobility device to access a dining surface.
- ii. When deciding seating arrangements in the patio area, install some tables with room underneath to accommodate people using mobility devices.
- iii. Ensure that there are clear routes and maneuvering spaces for people using mobility devices on the patio.

## Patio Design

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### Fencing

For patio operators who must install temporary fencing, planter boxes or other items that supply a barrier between pedestrians and patios located within the right-of-way but off the roadway, the following guidelines must be met:

- i. A vertical barrier between 0.9 and 1.2 metres in height must be always in place.
- ii. Opaque items (including dense plant material) must not be greater than 1.2 metres in height, measured from the street's surface to preserve sightlines.
- iii. Where any part of the fencing is near the pedestrian clearway, the fencing must have a solid, cane-detectable base, spaced no more than 0.3 metres apart. Fencing near a sidewalk should also have a colour contrast to the sidewalk to make it easily identifiable to pedestrians.
- iv. Fencing must be free-standing and self-supporting with proper weights so that the fencing cannot be moved unintentionally.
- v. Fencing/planter boxes/vertical barrier items including their supports, must not project into the path of travel of cyclists, pedestrians, or motor vehicles.
- vi. Fencing/planter boxes/vertical barrier items must not be attached to trees, street elements or utilities.
- vii. Fabric, canvas, plywood, plexiglass, or similar materials are not approved to be used for the vertical barrier.

- viii. Temporary fencing, planter boxes and other vertical barrier materials must have retro-reflective tape, or reflective flexi-posts at each end of the patio area, and preferably along the full length of the closure area. All other materials must minimize glare for nighttime road users. Reflective items are widely available for purchase at hardware stores.

## Planters

Planters may be used in lieu of a fence but must be adequately sized to define the patio space. When using planters in lieu of a fence, the fencing guidelines also apply.

The following guidelines apply to the use of plants in patios:

- i. Plants must be healthy, living and maintained throughout the season.
- ii. Ground planters may be used within the patio for decoration. The planters may not exceed 0.5 metres in width and 1.0 metres in height. Planters with plant material, may not exceed 1.2 metres in height or interfere with sight lines.

## Sources of Shade

Umbrellas and canopies are a source of shade for patio patrons and employees and must be installed correctly and located entirely within the limits of the patio. Umbrellas and canopies must be installed so that there are no issues with sightlines for pedestrians, cyclists or motorists.

The following guidelines apply to the use of umbrellas and canopies in patios:

- i. Umbrellas and canopies must be made of flame-retardant material.
- i. Canopies, if used, must be temporary and removable with no walls or sides. They must be 3.0 metres x 3.0 metres or smaller.
- ii. Umbrellas, if used, must stand at least 2.1 metres (7 feet) above the walking surface.
- iii. Umbrellas and canopies must be free-standing and self-supporting with proper weights so not to be blown during inclement weather or high winds.

## Portable Heating Appliances

Portable heating appliances in the right-of-way must be installed on a non-combustible solid surface (e.g., not on grass or uneven sidewalk) with a minimum of 1.0 metres clearance from the base of the unit to any combustible material.

In addition to the following, more information is available on the Technical Standards and Safety Authority (TSSA) website - [Patio Heater Safety Guideline](#).

Portable heating appliances must:

- i. Be certified by CSA/ULC
- ii. Meet the requirements of TSSA Act 2000
- iii. Be designed for outdoor use only.
- iv. Have an anti-tilt feature that automatically shuts off the heater.
- v. Be free-standing, with a minimum height of 1.6 metres. Tabletop heating appliances are not approved for use under this program.



## Lighting

Lighting may be used on patios, but should comply with the following guidelines:

- i. Lighting features must be temporary and comply with all applicable safety standards and codes.
- ii. Lights and power cables should be located within the boundaries of the patio. Ensure no power cables or lighting elements run over the pedestrian clearway. Consider battery or solar-powered lights.
- iii. Lighting must not create safety hazards (i.e., casting glare) for pedestrians or vehicles. Lights should be directed onto the patio and away from neighbouring properties and the street.
- iv. Lights must not be attached to trees, utilities or other street elements.
- v. Patio operators must not connect to outlets available within the public right-of-way.
- vi. Lighting must be dimmed or turned off after closing hours.

## Waste Collection

Patios can reduce the space available for waste carts. The placement of patios and waste containers should be coordinated to give patrons the best experience while helping waste collection.

Chatham-Kent's Waste Management Bylaw allows waste to be set out on or in front of the property it is generated on. Carts must be set out in front of the patio operator's property and patio operators must not rely on using public space in front of neighbouring properties.

Patio operators must use an approved set of carts to store and set out waste. Carts should be placed with openings facing the street. Where possible, they should be spaced with clearance of one metre between, beside and behind them.

# Patio Checklist

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The following patio checklist has been prepared to help ensure a complete Patio Application request. The criteria will be used as part of the evaluation process:



## Property Owner Authorization

Does the business owner have the consent/approval of the property owner to submit a Patio Application. Property owner authorization is needed.



## Road Authority

Is the proposed patio located on a municipal street or sidewalk? Specific standards and approvals will apply based on road classification and authority.



## Clear Path of Travel (unobstructed sidewalk)

Does the proposed patio support the required "Clear Path of Travel" requirement? Review patio location and show on the Patio Drawing.



## Setbacks

Are there any setbacks that may affect the proposed patio location? These may include on-street parking spaces, bike lanes, fire hydrants, or other.



## Fencing

Is the proposed patio fencing removable? Does it meet installation criteria and design goals?



## Patio Application:

Do you have the following information for submission?

- a. Scaled Patio Plan showing patio dimensions, clear path of travel, setback information (to surrounding features and building facade), building entrance, sidewalk dimensions, curb line.
- b. Do you have the necessary liability insurance for a patio? Can you supply a copy of a Certificate of Insurance completed by an insurer or insurance broker?